

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TRUEPOSITION, INC.,

Plaintiff,

v.

LM ERICSSON TELEPHONE COMPANY
(Telefonaktiebolaget LM Ericsson), QUALCOMM
INC., ALCATEL-LUCENT, U.S.A., INC., THIRD
GENERATION PARTNERSHIP PROJECT a/k/a
3GPP, and EUROPEAN TELECOMMUNICATIONS
STANDARDS INSTITUTE,

Defendants.

CIVIL ACTION
2:11-cv-04574-RFK

**DEFENDANT THIRD GENERATION
PARTNERSHIP PROJECT’S MOTION TO DISMISS
PLAINTIFF TRUEPOSITION, INC.’S AMENDED COMPLAINT**

Defendant Third Generation Partnership Project (“3GPP”) hereby moves the Court to dismiss the Amended Complaint of plaintiff TruePosition, Inc. (“TruePosition”) as against 3GPP pursuant to Federal Rule of Civil Procedure 12(b)(1) on the grounds that TruePosition has failed to allege any dispute that is ripe for judicial adjudication, and pursuant to Federal Rule of Civil Procedure 12(b)(6) on the grounds that TruePosition has failed to state a claim for which relief can be granted and has failed to allege antitrust injury. The grounds for this Motion are further set forth in the accompanying Memorandum of Law and other supporting documents.¹

Oral argument is respectfully requested.

¹ 3GPP also relies on the arguments proffered by dismissed defendant European Telecommunications Standards Institute (“ETSI”) on the antitrust injury and ripeness. *See* ETSI’s Memorandum of Law in Support of its Motion to Dismiss TruePosition’s Amended Complaint, dated March 16, 2012 (Dkt. 102-1) at 18-25; Reply Memorandum of Law In Support of ETSI’s Motion to Dismiss TruePosition’s Amended Complaint, dated May 7, 2012 (Dkt. 111) at 11-15.

WHEREFORE, defendant 3GPP respectfully requests that the Court grant this Motion and dismiss this action as against 3GPP pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).

Respectfully submitted,

Dated: August 15, 2012

/s/ Richard S. Taffet
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CERTIFICATE OF SERVICE

I, Derek Care, hereby certify that on August 15, 2012, I caused true and correct copies of the following to be served on all parties to this litigation by ECF and first class mail:

1. Defendant Third Generation Partnership Project's Motion to Dismiss Plaintiff TruePosition, Inc.'s Amended Complaint, dated August 15, 2012 (the "Motion");
2. Memorandum of Law In Support of the Motion, dated August 15, 2012;
3. Declaration Of William S.D. Cravens In Support of the Motion, dated August 15, 2012; and
4. Proposed Order.

Dated: August 15, 2012

/s/ Derek Care
Derek Care